

# EXHIBIT 5

# MICHIGAN STATE UNIVERSITY

August 8, 2022

To: Teresa K. Woodruff, Ph.D., Provost and Executive Vice President for Academic Affairs



From: Ann E. Austin, Ph.D., Interim Associate Provost and Associate Vice President for Faculty and Academic Staff Affairs

**Subject:** Leadership Review - Dean Sanjay Gupta

This memo provides information relevant to the leadership response of Dean Sanjay Gupta<sup>1</sup> to an Eli Broad College of Business (College of Business) incident.<sup>2</sup> Dean Gupta failed to report an incident under the *University Reporting Protocol: Relationship Violence, Sexual Misconduct, and Stalking*<sup>3</sup> policy. Details are outlined in the Mandatory Reporting Failure Investigative Memorandum issued by the Office of Institutional Equity (OIE) on August 2, 2022,<sup>4</sup> Case # 2022-00907.

The Office for Faculty and Academic Staff Affairs (FASA) has reviewed the actions of the College of Business leadership following the incident and the OIE Mandatory Reporting Failure Investigative Memorandum, and recommends the action outlined below.

## Recommended Action

Based on consultation with the Directors within FASA, I recommend Dr. Gupta no longer serve as the Dean of the Eli Broad College of Business. I also recommend that he be required to participate in an additional in-person mandatory reporting training session.

## Rationale for the Recommendation

All university administrative leaders bear the responsibility of carrying out institutional policies and upholding institutional values. The university is an institution with a particular responsibility to improve society and do everything in its means to support, advance, and protect from harm the students (as well as the faculty and staff).

At Michigan State University, recognizing the errors and harm done to others in its institutional history, we have a particular responsibility to conduct all aspects of our work and our community life with special regard to the values of respect, care, and inclusion. Those who take on leadership roles are expected to conduct themselves with careful and consistent attention to integrity and professionalism, to protect the safety of all members of the community, and to ensure such institutional values are embedded in all activities and actions associated with MSU. Furthermore, not only are institutional leaders expected to support these values; they also are expected to act when these values are



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<sup>1</sup> Dr. Gupta's hire date with MSU was July 1, 2007. His appointment as Acting Dean of the Eli Broad College of Business was effective July 1, 2014. He was appointed Dean effective June 17, 2015.

<sup>2</sup> The incident requiring mandatory reporting is currently under investigation by the Office of Institutional Equity (OIE Case # 2022-00671).

<sup>3</sup> University Reporting Protocol: Relationship Violence, Sexual Misconduct, and Stalking:  
[https://civilrights.msu.edu/policies/reporting\\_protocols.pdf](https://civilrights.msu.edu/policies/reporting_protocols.pdf).

<sup>4</sup> The Mandatory Reporting Failure Investigative Memorandum was sent by OIE to relevant parties on August 2, 2022.

undermined, threatened, or violated. Each leader has an explicit responsibility to the well-being of our students and the integrity of our university.

In this case, Dr. Gupta failed to live up to and enact his responsibility as an institutional leader. He failed to fulfill his mandatory reporting responsibility and to take expected, immediate, and appropriate actions to address alleged inappropriate behavior by one of his direct reports.

A dean has authority and responsibility delegated by the President and the Board of Trustees for the administration of a college, including personnel matters in the college.<sup>5</sup> A dean is held to the highest ethical standards as a university administrator and serves as a role model for academic administrators, faculty, staff, and students under the [Standards of Official Conduct for Senior University Administrators policy](#).<sup>6</sup> In short, his decisions, taken in his role as a College Dean, constitute a serious lapse of commitment to upholding his leadership responsibilities.

Based on a review of the leadership response, the OIE report concerning Mandatory Reporting Failure, a review of the events and policies relevant to this situation, and reflection on the ethical responsibilities that Michigan State University values and seeks to uphold, I request you consider, with the concurrence of the FASA Directors and University counsel, the recommendation presented above.

#### **Background on Communications of Mandatory Reporting Responsibility**

On January 1, 2015, the *Relationship Violence and Sexual Misconduct Policy* was issued that required all MSU employees to report any knowledge of relationship violence or sexual misconduct allegedly perpetrated by a member of the MSU community or occurring at an MSU event or on MSU property. The term “sexual misconduct” included sexual harassment. With the implementation of this requirement (“mandatory reporter requirement”), communications<sup>7</sup> were sent to MSU faculty and/or administrators announcing the reporting requirement and associated required trainings. At the time of policy implementation, all responsible MSU employees were required to complete the RVSM Mandatory Reporting e-Learning module, with a requirement for re-completion every two years. As discussed in the OIE Mandatory Reporting Failure Investigative Memorandum, Dr. Gupta is up-to-date on his training requirement.

Under the Clery settlement agreement, Human Resources and FASA (formerly Academic Human Resources) are required to send a communication to all MSU employees each semester that encourages reporting of suspected criminal activity or misconduct, provides a description of the options to report, and explains the University’s policies and efforts to protect employees from retaliation. These communications specifically outline the mandatory reporting requirement applicable to responsible employees regarding allegations of sexual harassment. The first of these communications was sent in January 2020, and a total of seven communications<sup>8</sup> were sent to the MSU community prior to the underlying incident requiring mandatory reporting in April 2022.

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<sup>5</sup> *Bylaws for Academic Governance*, section 2.1.

<sup>6</sup> Principles: Administrators at Michigan State University are expected to abide by the highest ethical standards in discharging their responsibilities for the University, to act in the best interests of the University, to accord the University their primary professional loyalty, and to arrange their other obligations, financial interests, and activities in a manner consistent with these commitments to the University.

<sup>7</sup> University Communications Regarding Mandatory Reporting were sent:

December 29, 2014: Email to the MSU Community announcing new policy

February 6, 2015: Email to Deans, Directors, Chairs announcing e-Learning training

February 23, 2015: Email to Deans, Directors, Chairs regarding e-Learning training.

<sup>8</sup> University Communications Regarding Reporting Misconduct were sent: (1) January 24, 2020, (2) May 11, 2020, (3) August 31, 2020, (4) January 11, 2021, (5) May 17, 2021, (6) September 1, 2021, and (7) January 10, 2022.

Additionally, FASA prepares and sends an “Important Policies” guide to academic administrators at regular intervals.<sup>9</sup> The Important Policies guide highlights the mandatory reporting requirement applicable to responsible employees regarding allegations of sexual harassment.

Dr. Gupta clearly received periodic communications about the reporting requirement during his time as dean and attended training on the reporting requirement. It is evident that he knew of his obligation and yet still failed to act.

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<sup>9</sup> Sent to academic administrators from the Provost on (1) January 8, 2020, (2) January 11, 2021, (3) September 14, 2021, and (4) September 1, 2021.